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Mr. David Buente  
Acting Chief, Environmental Enforcement Section  
Land & Natural Resources Division  
U.S. Department of Justice  
Washington, D.C. 20530

RE: United States v. Reilly Tar & Chemical Corp.  
No. 4-80-469 (D. Minn.)

Dear Mr. Buente:

This is in response to the letter of November 2, 1984 from Stephen Ramsey to Fred Stiehl concerning the RIFS process at the Reilly Tar & Chemical Corporation site. In his letter, Steve voiced a concern about the adverse consequences which may result from the failure of the Government to have completed a feasibility study and Record of Decision (ROD) prior to trial. He then asked whether it was possible for U.S. EPA to accelerate such process.

Of course, I share your interest in moving ahead with the feasibility study and ROD. Last September, Region V became aware that the feasibility study and ROD may be significantly delayed by the contracting procedures which the State was required to follow. In order to address this problem, the concept of using an EPA zone contractor to do the work was raised by Region V to the State on September 27. As you may know, Minnesota was somewhat reluctant to relinquish its control over the feasibility study. This was due in large part to the fact that the study would address the disposition of water from the gradient control well system into the recreational waters of surrounding communities.

On October 24, Dale Wikre, Director of the Solid & Hazardous Waste Division for the Minnesota Pollution Control Agency, wrote a letter to Basil G. Constantelos in response to EPA's proposal to use our zone contractor to do the study. Mr. Wikre proposed to give EPA the lead on the aspects of the feasibility study which address the Drift, Platteville and St. Peter aquifer and multi-aquifer wells. He stated that the State would want to retain the lead on that portion of the study which concerned the disposition of the gradient control well water.

Following receipt of Mr. Wikre's letter, Region V and the State have worked through the mechanism which would allow



Implementation of the Feasibility study in an expeditious fashion while permitting the state to retain control over the water disposition aspects. The Agency is preparing to enter into a contract which will allow CH2M-Hill to start on the feasibility study by January 31, 1985 and complete the draft feasibility study by March 30. The contract will provide the type of technical support that will allow the State to maintain control over the water disposition portion of the study.

Following completion of the draft feasibility study, it will be reviewed by EPA and the State, go through a thirty day public comment period and become final by May 15. A ROD can then be scheduled for any time after May 15.

Although the ROD will not be issued until shortly after the scheduled April 29 trial date, the posture of the United States should not be adversely affected. Both the United States and Minnesota have had a clearly articulated and well supported position with regard to the appropriate remedy for this site for many months. This position was set forth in the Remedial Action Plan (RAP) which is the technical portion of the Consent Decree that the government has had on the negotiating table. Our fact and expert witnesses as well as the documentary evidence can and will be made ready for all aspects of the trial. The issue concerning the disposition of the water is one detail not presently resolved in the RAP, but which may well be resolved prior to trial. In any event, the Government has narrowed the water disposition issue to just a few options and, if necessary, will be prepared to set forth such options and the respective costs at trial. The work to be performed by CH2M-Hill and the State, together with the great deal of work which has already been done toward establishing a governmental position with regard to remedy, will allow the United States to be well prepared to present all issues at trial.

Very truly yours,

Robert B. Schaefer  
Regional Counsel

cc: Frederick Stiehl  
Gene Lucero  
Basil G. Constantelos

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UNITED STATES OF AMERICA  
ENVIRONMENTAL PROTECTION AGENCY

REGION V  
230 SOUTH DEARBORN  
CHICAGO, ILLINOIS 60604

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Gene Lucero  
U.S. Environmental Protection Agency  
401 M. Street, S.W.  
Washington, D.C. 20460